

Notice of Allowability

Application No.

10/763,544

Examiner

Beverly M. Flanagan

Applicant(s)

KEHR, ULRICH

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Interview - 2/3/06.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 1/23/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


BEVERLY M. FLANAGAN
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney David Aldrich on February 3, 2006.

The application has been amended as follows:

In the claims:

Rewrite claims 1, 2, 4, 5, 7, 10 and 11 as follows:

Claim 1 (Amended): An apparatus for positioning at least one component within an endoscopic system, comprising:

a hermetically tight housing having a longitudinal axis;

at least one external magnetically active element arranged outside said housing and movable at least [with] in an axial [movement component] direction with reference to said longitudinal axis of said housing;

at least one internal magnetically active element arranged inside said housing and movable at least [with] in an axial [movement component] direction with reference to said longitudinal axis of said housing, said at least one internal magnetically active element being in operational connection with said component in such a way that the movement of said at least one internal magnetically active element causes a movement of said component;

a magnetic force coupling acting through said housing between said at least one external magnetically active element and said at least one internal magnetically active element

wherein said at least one internal magnetically active element is arranged, via a holder in said housing, hanging with reference to a direction of an attractive force of said [external] at least one external magnetically active element and at least with an axial [movement component] direction, wherein a side, facing said at least one external magnetically active element, of said at least one internal magnetically active element is free, and wherein said component is in operational connection with said at least one internal magnetically active element [via];

a driver element connecting said component and said at least one internal magnetically active element in such a way that said component is axially displaced given an axial movement of said at least one internal magnetically active element.

Claim 2 (Amended): The apparatus of claim 1, wherein said at least one internal magnetically active element is suspended in pendulum fashion in said housing about at least one swivel axis by means of said holder.

Claim 4 (Amended): The apparatus of claim 1, wherein said holder is suspended with a first end via at least one joint in said housing, and carries said at least one internal magnetically active element at an end opposite to said joint.

Claim 5 (Amended): The apparatus of claim 1, wherein said at least one internal magnetically active element is connected in an articulated fashion to said holder in such a way that an angular position of said at least one internal magnetically active element does not change with reference to said longitudinal axis of said housing [during the pendulum movement].

Claim 7 (Amended): The apparatus of claim 1, wherein said at least one internal magnetically active element is in operational connection with said component via said driver element with radial play relative to said longitudinal axis of said housing.

Claim 10 (Amended): The apparatus of claim 1, wherein said at least one external magnetically active element is connected to an operating element with is arranged on a side of said housing.

Claim 11 (Amended): The apparatus of claim 10, wherein said operating element is designed as an adjusting wheel which has an axis of rotation running approximately transverse to said longitudinal axis of said housing and is in operational connection with said at least one external magnetically active element, a rotary movement of said adjusting wheel causing a movement of said at least one external magnetically active element [with] in an axial [movement component] direction.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art does not teach or fairly suggest the invention as set forth in claim 1 of the instant invention reciting, *inter alia*, an apparatus for positioning a component within an endoscope system, comprised of a housing, an external magnetically active element arranged outside said housing and moveable in an axial direction, an internal magnetically active element arranged inside said housing and moveable in an axial direction with the internal magnetically active element is in operational connection with the component, where the internal magnetically active element is arranged in a holder hanging with reference to the attractive force of the external magnetically active element and a driver element that connects the component and the internal magnetically active element. The most relevant prior art, Wulfsberg, U.S. Patent No. 6,537,210, teaches all of the elements of claim 1 of the instant element, except for the ability of the external magnet to move axially and the separation of a driver element and an internal magnet. Wulfsberg teaches that the driver element 17 may be a magnet (see col. 5, lines 10-15), which would obviate the separate recitation of an internal magnet and a driver element, as set forth in claim 1 of the instant invention. Other relevant prior art references include Anhalt, U.S. Patent No. 6,552,477 and Witte, U.S. Patent No. 6,616,602.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

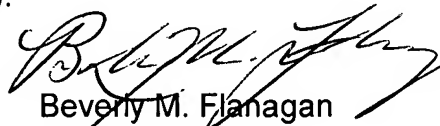
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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Beverly M. Flanagan
Primary Examiner
Art Unit 3739
